

M5NVSHE1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

S2 20 Cr. 412 (AT)

5 TIMOTHY SHEA,

6 Defendant.

7 -----x

Trial

8 May 23, 2022

9 9:00 a.m.

10 Before:

11 HON. ANALISA TORRES,

12 District Judge
13 and a Jury

14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the
Southern District of New York

17 BY: ALISON G. MOE

NICOLAS T. ROOS

18 ROBERT B. SOBELMAN

Assistant United States Attorneys

19 MERINGOLO & ASSOCIATES P.C.

Attorneys for Defendant

20 BY: JOHN C. MERINGOLO

21 ANGELICA B. CAPPELLINO

22 CLARA S. KALHOUS

23
24 Also Present: Sunny Drescher, Paralegal Specialist, USAO

M5NVSHE1

1 THE COURT: Good morning. Would you please make your
2 appearances.

3 MR. ROOS: Good morning, your Honor.

4 For the United States, Nick Roos, Alison Moe, and
5 Robert Sobelman. We're joined at counsel table by paralegal
6 specialist Sunny Drescher.

7 MR. MERINGOLO: Good morning, Judge.

8 John Meringolo, Anjelica Cappellino, Clara Kalhous for
9 Mr. Timothy Shea, standing to my right.

10 THE COURT: Please be seated.

11 At the final pretrial conference the government
12 requested that I allocute the defendant with respect to a prior
13 plea agreement that has expired.

14 Does the government wish to be heard?

15 MR. ROOS: Certainly, your Honor. I'm happy to
16 summarize the facts.

17 THE COURT: Go right ahead.

18 MR. ROOS: Your Honor, as the Court is aware because
19 we've docketed a letter at this point, there were plea
20 discussions with the defendant. We extended a plea offer in
21 writing in a plea agreement. The defendant chose not to accept
22 it. Subsequently, we've been all working on this trial. On
23 May 9th we sent a letter pursuant to the Court's suggestion in
24 *United States v. Pimentel*, setting forth the government's
25 current view of the applicable guidelines in the event the

M5NVSHE1

1 defendant goes to trial on the superseding indictment.

2 We just want to confirm the defendant has received the
3 now-expired plea offer and also the subsequent *Pimentel* letter.

4 THE COURT: Mr. Meringolo.

5 MR. MERINGOLO: Yes, your Honor, we have received the
6 plea, gone over it with Mr. Shea. We chose to reject the plea
7 and proceed to trial. Subsequent to that, I believe one
8 evening -- I don't know what day it was -- the government sent a
9 *Pimentel* letter over. I went over that with Mr. Shea, as well.
10 And I just think that was, I guess, just to inform us of what
11 the government was going to try to do after trial. But it
12 wasn't a formal *Pimentel* where we were given an opportunity to
13 accept or reject.

14 THE COURT: Mr. Shea --

15 MR. MERINGOLO: If I'm wrong --

16 MR. ROOS: It is a written *Pimentel*. I can just pass
17 it back to defense counsel if he needs it. Although I agree
18 that we emailed about it.

19 MR. MERINGOLO: This is the *Pimentel* that I went over
20 with Mr. Shea.

21 MR. ROOS: Just for the record, this sets forth the
22 government's view of the applicable guidelines in the event the
23 defendant were to plead guilty to the indictment, which he, of
24 course, can do -- he can do it right now, he can do it in the
25 middle of trial. So that's all the *Pimentel* sets forth, is the

M5NVSHE1

1 government's view of the guidelines were the defendant to be
2 convicted either by his own plea or following a jury trial.

3 MR. MERINGOLO: That is correct.

4 THE COURT: Mr. Shea, are you aware of the plea
5 agreement that was offered to you?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: And are you aware of the *Pimentel* letter
8 that has been referred to?

9 THE DEFENDANT: I am, yes, your Honor.

10 THE COURT: And did you discuss all of that with your
11 lawyers?

12 THE DEFENDANT: I did, yes.

13 THE COURT: And did you reject the plea agreement?

14 THE DEFENDANT: Yes, I did, ma'am.

15 THE COURT: Does the government wish me to make any
16 further inquiry?

17 MR. ROOS: No. Thank you very much, your Honor.

18 THE COURT: Please be seated.

19 Is there anything further before we begin voir dire?

20 MR. ROOS: Nothing for the government, your Honor.

21 MR. MERINGOLO: Nothing from the defense, Judge.

22 THE COURT: I'm told that the panel should be ready in
23 about ten minutes. And I understand that the lawyers have the
24 seating chart that I'll be using.

25 (Pause)

M5NVSHE1

1 THE COURT: Counsel, I'm going to be interviewing the
2 first 38.

3 MR. ROOS: Your Honor, I'm sorry. I just realized I'm
4 not sure we know the procedure for exercising both for-cause
5 and peremptory challenges.

6 THE COURT: So I'm going to be making inquiries. And
7 to the extent that it would be appropriate for the potential
8 juror to speak with us privately, I'm going to call them to the
9 front. And obviously some will be clearly not fit for service,
10 and at that point I'll have them return to the seat, but then
11 later I'll be excusing them.

12 Now, the for-cause challenges, of course, will happen
13 after I have finished speaking to all of those 38.

14 MR. ROOS: Understood.

15 And the process for our peremptory or strike
16 challenges or excusals, does your Honor do them simultaneous
17 where we both give you the list or alternating?

18 THE COURT: So today we're going to be picking 12
19 jurors and four alternates. There are ten peremptories for the
20 defendant and six for the government on the regular jurors. On
21 the alternates, two peremptories for the defendant, two for the
22 government. And so in the first round on the regular it will
23 be two for the defense, one for the government, and so on.

24 MR. ROOS: Thank you, your Honor.

25 THE COURT: I was just told that the panel will arrive

M5NVSHE1

1 in a half hour.

2 (Jury selection commenced)

3 (Adjourned to May 24, 2022 at 9:00 a.m.)